



Montoya, Darlene <dmontoya@nmag.gov>

Use of Force-Ofc. Involved Shooting SPPD

6 messages

Steven Calzada <steven.calzada@sunlandpark-nm.gov>
To: "dmontoya@nmag.gov" <dmontoya@nmag.gov>

Mon, Jan 23, 2017 at 2:47 PM

Darlene Montoya

Attached find the Departments Policies and Procedures for Use of force and officer involved shootings. If we can help with anything else lets us know, thanks and have a great day

2 attachments



SPPD Use of Force.pdf
4176K



SPPD Ofc. Involved Shooting.pdf
2053K

Montoya, Darlene <dmontoya@nmag.gov>
To: Steven Calzada <steven.calzada@sunlandpark-nm.gov>

Mon, Jan 23, 2017 at 2:53 PM

Chief Calzada:

Just one thing. In the original letter, the subcommittee also would like to know the last time the policies were reviewed and/or revised, and how often your staff received training on these policies. Please let me know and I will include it with a copy of the policies.

Thank you.

On Mon, Jan 23, 2017 at 2:47 PM, Steven Calzada <steven.calzada@sunlandpark-nm.gov> wrote:

Darlene Montoya

Attached find the Departments Policies and Procedures for Use of force and officer involved shootings. If we can help with anything else lets us know, thanks and have a great day

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
(505) 490-4854

Montoya, Darlene <dmontoya@nmag.gov>
To: steven.calzada@sunlandpark-nm.gov

Mon, Jan 23, 2017 at 3:00 PM

Your message

To: Montoya, Darlene

Subject: Use of Force-Ofc. Involved Shooting SPPD
Sent: 1/23/17, 2:47:33 PM MST

was read on 1/23/17, 3:00:17 PM MST

Steven Calzada <steven.calzada@sunlandpark-nm.gov>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Mon, Jan 23, 2017 at 3:24 PM

Darlene Montoya

The last time the Policies were revised was February 2, 2016.

Use of force was reviewed by the Department on May 11, 2016.

Officer involved shooting was reviewed by a few officers and supervisors December 2015 when we had an officer involved shooting.

From what I have gathered officers reviewed once a year for Use of force and once when there was an officer involved shooting.

Hope this helps. Thanks again.

From: Montoya, Darlene [mailto:dmontoya@nmag.gov]
Sent: Monday, January 23, 2017 2:53 PM
To: Steven Calzada <steven.calzada@sunlandpark-nm.gov>
Subject: Re: Use of Force-Ofc. Involved Shooting SPPD

[Quoted text hidden]

Montoya, Darlene <dmontoya@nmag.gov>
To: Steven Calzada <steven.calzada@sunlandpark-nm.gov>

Mon, Jan 23, 2017 at 3:26 PM

Thank you so much for the information Chief Calzada. Have a great rest of the day and stay safe.

[Quoted text hidden]

Montoya, Darlene <dmontoya@nmag.gov>
To: steven.calzada@sunlandpark-nm.gov

Mon, Jan 23, 2017 at 3:26 PM

Your message

To: Montoya, Darlene
Subject: RE: Use of Force-Ofc. Involved Shooting SPPD
Sent: 1/23/17, 3:24:07 PM MST

was read on 1/23/17, 3:26:27 PM MST

SUNLAND PARK POLICE DEPARTMENT	ADMINISTRATION
SUBJECT: <i>Use of Force</i>	NUMBER: <i>ADM.05.01</i>
EFFECTIVE DATE: <i>February 2, 2016</i>	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED:
	Jaime Reyes Chief of Police
NMMLEPSC STANDARDS: <i>ADM.05.01 – ADM.05.04</i>	NMSA:

I. STATEMENT OF PURPOSE

The use of force by a police officer is an extremely sensitive issue and requires careful study and understanding by every officer. This is especially true since the definitions of the use of force by police are based on the determination of reasonableness under the circumstances. Although the careful use of force is authorized by law, the use of unnecessary or unreasonable force is strictly prohibited and will not be tolerated. While clear boundaries of reasonableness can be defined for certain police situations, others must be interpreted for the particular set of circumstances involved. The purpose of this section is to provide each officer with policy guidance and direction with respect to the use of force in carrying out his duties.

II. APPLICABILITY

This policy shall apply to all employees and volunteers of the Sunland Park Police Department who under authority or color of law, are authorized or permitted to use force against another person for lawful purposes.

III. REFERENCES

Amendments IV, XIV, United States Constitution; Article II, Section 10 and 18, New Mexico Constitution: *Graham V. Connor*, 490 U.S. 386 (1989); *Tennessee V. Garner*, 471 U.S. 1 (1985); *Quezada V. County of Bernalillo*, 944 F.2d 710 (10th Cir. 1991); *Casey V/ City of Federal Heights, C.A. 10 (Colo.)*, 2007; Use of Force Policy (Rev. 3-10), Denver (Co) Police Department; Deadly Force Policy (7/2004), United States Department of Justice; Use of Force Policy (7/2009), Los Angeles Police Department; Model Policy on Use of Force, International Association of Chiefs of Police; "Use of Force policies and training: A reasoned approach (Part I and II)", Thomas D. Petrowski, J.D., F.B.I. Law Enforcement Bulletin, Nov. 2002 Issue; National Tactical Officer's Association Materials (2007); Standards ADM.05.01-ADM.05-.04, New Mexico Standards Council.

II. DEFINITIONS

- A. Deadly Force:** is force that has a substantial likelihood of causing death or serious bodily injury.

- B. Less-lethal force:** any force other than deadly force which is designed for or used in a manner so that it creates a lower potential for causing death or great bodily injury than conventional police tactics or traditional deadly force weapons.
- C. Imminent/ immediate threat:** for the purpose of this policy, the words imminent and immediate are synonymous. "in relation to homicide in self-defense, this term (imminent danger) means immediate danger, such as must be immediately met" (Black's Law Dictionary). Immediate/ imminent means that an action is pending with little or no time spacing. A subject can pose an imminent threat even if he is not at that very moment pointing a weapon at an officer or other person. For example, an imminent threat may exist if officers have probable cause to believe any of the following (these examples are not all inclusive):
1. The subject possess a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against an officer or other person; or,
 2. When a violent felony suspect is armed with a firearm and running to gain the tactical advantage of cover; or,
 3. A subject with the capability of inflicting death or great bodily injury- or otherwise incapacitating an officer or others- without a deadly weapon, is demonstrating an intention to do so; or,
 4. The subject is attempting to escape from the vicinity of a violent confrontation in which the subject inflicted or threatened the infliction of death or great bodily injury, and if the subject were allowed to escape, it would be reasonable to believe that he would continue to pose a danger to officers or others.
- D. Reasonable Belief:** when facts or circumstances the officer reasonably believes, knows or should know are such as to cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.
- E. Probable cause:** facts and circumstances that would lead a reasonable person to believe that a crime is being committed, has been committed or will be committed.
- F. Objectively reasonable:** the legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the U.S Constitution (see *Graham v. Conner*, 490 U.S. 386 (1989)). According to *Graham* the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split second judgments- in circumstance that are tense, uncertain, and rapidly evolving- about the amount of force that is necessary in a particular situation. As in other Fourth Amendment context, however, the "reasonableness" inquiry in an excessive force case is an objective one: the questions is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to

their underlying intent or motivation. Therefore, the Sunland Park Police Department examines all uses of force from an objective standard, rather than subjective standard.

- G. Great bodily/ injury, serious physical injury or serious bodily harm:** an injury to a person which creates a high probability of death, results in serious disfigurement, results in loss of any member or organ of the body or results in permanent or prolonged impairment of the use of any member or organ of the body.
- H. Suspect/ subject:** a suspect is defined as someone who is the target of a criminal action or investigation (i.e. a battery suspect). A subject is defined as any other person that is the target of a law enforcement action and is not a suspect (i.e. an armed /unarmed suicidal subject). Depending on the actions of a “subject”, he or she can become a “suspect” if they commit a criminal act.
- I. Deadly weapon:** means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is capable of producing death or serious bodily injury.
- J. Less-lethal weapon:** is any weapon that when used against another living being, and in accordance with department approved training, has less of a potential of causing great bodily harm or death when compared to a deadly weapon. Some less –lethal weapons can be used as a deadly weapon when target areas such as the high chest, neck, head or groin are intentionally targeted by the operator.
- K. Weapon of opportunity:** is any instrument that could be used by an officer to defend themselves or another against a violent attack. A weapon of opportunity could include, but is not limited to: a stick, vehicle, hammer, glass bottle, pipe, flashlight, sand, a rock, gravity, a knife, a rope, etc.
- L. Excessive Force:** is the application of more force than is reasonably necessary at the time; too much force could be applied or the correct amount of force could be applied but for too long of time.

VI. PROCEDURES

The use of force, especially force likely to result in serious bodily injury or death (including a firearm), is a serious action. When deciding whether to use force to respond to a perceived threat, officers shall act within the boundaries of the United States and New Mexico Constitutions and laws, relevant case law- both federal and state, sound ethics, good judgment, this use of force policy or “continuum” and all other relevant Sunland Park Police Department policies, practices and training.

With this guidance, an officer shall use only that degree of force that is objectively reasonable under the circumstance and only to effect lawful objectives.

- A. Officers should ensure that they do not engage in unreasonable actions that precipitate the use of force as a result of tactical, strategic, and procedural errors that place themselves or others in jeopardy. Additionally, when considering the safety of other, Officers will place the following types of person(s)/ property in the following order of priority (also known as "The Priority of Life").
- a. Hostages/innocent bystanders/ other non-law enforcement first responders
 - b. Law enforcement personnel
 - c. Suspect/ subject
 - d. Property
- B. As an example to clarify The Priority of Life ranking, in general officers should not make decisions or take courses of actions which would tend to place the safety of a suspect/subject above that of themselves or another law enforcement officer, innocent bystanders, other first responders, or hostages.

When applying any type of force in an objectively reasonable manner, an officer must first determine the specific facts and circumstances that are available to him about the particular case before him.

- A. The law understands that often times officers are asked to make split second decision that are tense, uncertain and rapidly evolving. Personnel within this department should make themselves familiar with this policy and the law surrounding uses of force consistent with their training. For clarification, it is not expected that a officer will think about this policy and all the factors listed within this policy prior to using force during an actual event, but rather the officer should have a firm understanding of what factors should be considered when using force long before the officer is placed in a position to use force. **Knowledge is key, and it is the desire of this agency for each employee that is affected by this policy to thoroughly understand use of force law and this policy, so that when it is time to use force against another, that they do so in a manner that is consistent with the law and this policy, and without hesitation if needed.** Determining whether the force used to effect a particular seizure is reasonable under the Fourth Amendment requires carefully balancing the nature and quality of the intrusion on the individual's Fourth Amendment interest against the countervailing governmental interest at stake. The three main factors that an officer should consider when using force are:

1. The severity of the crime at issue,
2. Whether the suspect/subject poses an immediate threat to the safety of other law enforcement personnel or others, and
3. Whether the suspect/subject is actively resisting arrest or attempting to evade arrest by flight.

B. When determining the severity level of the crime, the officer should consider the following (this list is not all inclusive):

1. Is the crime a crime of violence or a property crime?
2. Was anyone harmed during the crime? If so, was it to the level of great bodily injury or death or was it a minor injury?
3. Was the suspect armed when he or she committed the crime?
4. Is the crime classified as a misdemeanor or felony?

C. When determining whether or not the suspect poses an immediate/imminent threat to the safety of officers or others, the officers should consider the following (this list is not all inclusive):

1. Is the suspect/subject currently believed to be armed, and if so, are they currently threatening themselves or others with the weapon or have they done so in the immediate past?
2. Is the suspect/subject in a confrontational stance or showing other signs of aggression towards an officer or citizen?
3. Is the suspect/subject refusing to comply with lawful commands from the officers? (i.e. drop the weapon; do not move; show me your hands, etc.)
4. Is the suspect/subject verbalizing threats to the officer or others?
5. Will the application of force by the officer in order to overcome the resistance or level of force posed by the suspect/subject unreasonably endanger another citizen or officer given the circumstance?

D. When determining whether or not the suspect/ subject is actively resisting arrest or attempting to evade arrest by flight, the officer should analyze the following (this list is not all inclusive):

1. Is the suspect/ subject resisting or evading arrest by non-compliance with lawful commands from the officer?
2. Is the suspect/ subject resisting apprehension or arrest by using physical force?
3. Is the suspect/ subject evading arrest by walking away/ running away or fleeing in a motor vehicle or other mode of transportation.
4. Is the danger to the public and other officer greater if the suspect/subject remains uncaptured as a result of their resistance or flight or is there a greater danger to other officer and / or the public if the officer uses the proposed level

of force to apprehend the suspect/ subject?

E. Numbers, skill and size disparities

1. Occasionally an officer will be confronted during an encounter by more than one adversary, by an adversary who has been trained to a skill level in combat that places the officer at a disadvantage, or the officer may be confronted by an individual that is considerably larger in size or stronger than the officer. Any of these situations can place the officer in a position of having level, to use a higher level of force than would have been necessary had one or more disparities not been present.

F. Managing Risk/ Officer created jeopardy

1. Officer created jeopardy occurs when an officer places himself into a position that requires the officer to use force, and had the officer not placed himself into that position or into a position of tactical disadvantage, the force required would not have been used or less intrusive level of force could have been used.
2. Examples of officer created jeopardy include but are not limited to standing in front of a moving motor vehicle that is moving towards the officer, that is occupied by a suspect of criminal act, when there was ample time to move out of the way, but yet the officer chose to stand his ground and fire into the vehicle striking the suspect and killing him. Another example of officer created jeopardy would be responding to an armed suicidal subject call at a residence and running into the residence to confront the armed subject instead of trying to deescalate the situation through negotiations from a position of tactical advantage.

G. Moving from a Show of Force to a Use of Force or moving from one type of Force to another Type of Force.

1. Nothing in this policy prevents an officer from transitioning from one level of force (i.e the use of pepper spray as an example) to another level of force (i.e deadly force if the situation dictates such a transition. There is no requirement that an officer "escalate" through all levels of force, from the least intrusive level of force to the most intrusive level of force, in order to reach the desired level of force for the particular situation.
2. An officer may also be required to transition between a show of force to a use of force with the same or different weapon system in a very short time frame.

H. Types of less-lethal systems Utilized vs. Level of threat/ Resistance

1. Listed below are the various systems/ techniques that members of the Sunland Park Police Department may be trained to operate/ utilize when dealing with non-cooperative or violent suspects/subjects. If reasonable to do so, and if it would not place the officer or a citizen at a tactical disadvantage, the officer should give a warning prior to deploying any type of less lethal device/system.

a. System Type- Empty hand Techniques

i. Empty hand techniques include the following (not all in inclusive):

- (a) Escort position
- (b) Wrist locks/twist locks
- (c) Pressure points
- (d) Knew/elbow impact counters
- (e) Armbar takedowns
- (f) Impact takedowns
- (g) Grounds control techniques
- (h) Kicking countermeasures
- (i) Open hand impact techniques

ii. Empty hand techniques are generally used to overcome the following types of resistance or during the following types of situations, realizing that the appropriate empty hand technique must be used for the appropriate level of resistive in accordance with department training guidelines (this list is not all inclusive):

- (a) to overcome passive resistance by a subject to lawful authority, detention or arrest by a officer.
- (b) to overcome active resistance by a subject to lawful authority or when subject to arrest by an officer.
- (c) to gain custody and/or control of subject who unlawfully flees or attempts to evade an officer in the lawful performance of their duty.
- (d) when suspect or subject verbally or physically threatens an officer when the suspect/subject had the means and ability to complete an assault.
- (e) against a suspect or subject that is assaulting an officer or citizen with personal weapons (hands, feet, teeth, etc.)

iii. System type- chemical munitions (orthochlorbenzalmalononitrile (a.k.a CS or Oleoresin capsicum a.k.a OC))

- (a) OC and/ or CS can be deployed in the following ways:

(1) Pyrotechnic combustion

(2) Blast dispersion

(3) Expulsion

(4) Liquid projectile

(5) Powder projectile

(6) Liquid aerosol

(7) Fog

(b) OC and/ or CS are generally used to overcome the following types of resistance or during the following types of situations (this list is not all inclusive):

(1) As a show of force

(2) When confronted with assaultive behavior (words or actions)

(3) If attempting to apprehend a suspect/ subject that is unlawfully fleeing from the officer

(4) To overcome physical active resistance to a lawful arrest

(5) As a means of expelling a suspect/ subject from a fortified or barricaded position (i.e. criminal barricade or armed mentally ill subject)

(6) As a means of detention within a structure

(7) To control or subdue a threatening animal

iv. System Type- Electronic Restraint Device (i.e. Taser)

(a) Electronic Restraint Devices can be deployed in the following ways:

(1) Prong deployment at distance (varies)

(2) Direct contact (i.e. drive stun)

(b) Electronic Restraint Devices are generally used to overcome the following types of resistance/ or during the following types of situations (this list is not all inclusive):

- (1) As a show of force
- (2) When a suspect/ subject verbally threatens the officer when the suspect has the opportunity and ability to complete an assault.
- (3) Against a suspect/ subject that is assaulting an officer or citizen with personal weapons (hands, feet, teeth, etc.)

v. System Type - Patrol K-9

(a) Patrol K-9's can be deployed in the following ways:

- (1) on lead (patrol K-9 is tethered to the handler while conducting a search)
- (2) Off lead (patrol K-9 is not tethered to the handler and is free to search under the verbal direction of the handler)
- (3) Patrol K-9 primary purpose is to locate persons or things, but can be used as a use of force (bite) if reasonable under the circumstances

(b) Patrol K-9's are generally used to overcome the following types of resistance/ or during the following types of situations (this list is not all inclusive):

- (1) As a show of force
- (2) To locate and /or detain an escapee from a jail or prison who had been committed to the facility for a violent crime.
- (3) To locate and/or detain an outstanding criminal suspect who is believed to be the perpetrator of a violent criminal offense or who is believed to be armed with a deadly weapon

vi. System Type- Expandable Baton

(a) Expandable Batons can be deployed in the following ways:

- (1) In a swinging or thrusting motion in the expanded position

(b) Expandable Baton is generally used to overcome the following types of resistance/ or during the following types of situations(this list is not all inclusive):

- (1) As a show of force to counter a subject who verbally or physically threatens an officer or other citizen, when the suspect has the opportunity and ability to complete an assault

(2) Against a suspect or subject that is assaulting an officer or citizen with personal weapons (hands, feet, teeth etc.)

(3) To control or counter an aggressive, attacking animal.

vii. System Type- Extended Range Impact Devices (ERID)

(a) ERID'S can be deployed in the following variations:

(1) 12 gauge system (lightfield)

(2) 37mm system (sage)

(3) 68 caliber projectiles (pepperball)

(4) 31 caliber projectiles (stinger Grenade)

(b) ERID'S are generally used to overcome the following types of resistance/ or during the following types of situations (this list is not all inclusive). Additionally, each type of ERID that is utilized by this agency will have different injury potentials and therefore will generally be used in varying scenarios depending on what level of force the officer is being confronted with (see individual ERID polices and training curriculums for specifics on use):

(1) As a show of force when confronted with a suspect/ subject that is armed with a deadly weapon, and when available distance and hard cover are used in conjunction with lethal cover.

(2) As a area denial system (pepperball with PAVA munitions)

(3) When confronted by a suicidal subject that is armed with a deadly weapon and lethal cover and hard cover are used in conjunction with the ERID

(4) When confronted by a subject that has committed a violent misdemeanor or felony and who refuses to comply with lawful orders (pepperball)

(5) When confronted by a subject that has committed a violent felony and who refuses to comply with lawful orders

I. Deadly Force and weapons of Opportunity

1. Generally deadly force can be used by an officer of this agency during the following types of situations (this list is not all inclusive):

- a. When a suspect or subject threatens an officer or a citizen with a deadly weapon and the officer has probable cause to believe that he or the citizen are in imminent danger of serious bodily harm or death as result of the posed threat.
- b. When an officer had probable cause to believe a suspect is attempting to escape from the vicinity of a violent confrontation in which the suspect inflicted or threatened the infliction of death or great bodily injury, and if the suspect were allowed to escape, it would be reasonable to believe that he would continue to pose a danger to officers or others.
- c. To kill a dangerous animal or one that humane treatment requires its removal from further suffering and alternative methods of disposition are impractical and when the use of such force will not unreasonably endanger another person.
- d. Imminent danger which may require the use of deadly force may also exist if an officer has probable cause to believe that:
 - i. 1) the subject poses a threat of serious physical injury and
 - ii. 2) the officers has probable cause to believe any of the following:
 - a. When a suspect possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against an officer or other person
 - b. When a violent felony suspect is armed with a firearm and is moving to gain the tactical advantage of cover
 - c. When a suspect(s) with the capability of inflicting death or great bodily injury, or otherwise incapacitating an officer, without a deadly weapon, is demonstrating an intention to do so
- e. Reasonable to do so, and if it would not place the officer or a citizen at a tactical disadvantage, and if time allows, the officer should give a warning prior to deploying deadly force. An example of a warning could be "Police. Stop or I will shoot" or "Drop the knife/ gun or I will shoot".
- f. In some instance it may be appropriate for an officer to utilize a weapon of opportunity to defend himself or others. If an officer becomes disarmed (loos of less-lethal tool or approved firearm), or if an officer cannot use an approved weapon because of injury or for other legitimate reason, or if a weapon of opportunity is the most reasonable response, an officer is authorized to use a weapon of opportunity to defend himself or another as long as the weapon used is an objectively reasonable use of force, given the threat posed by the suspect/subject.
- g. Officer are not authorized to fire "warning" shots. If it is objectively reasonable

for an officer to use deadly force to protect himself or another, then the officer should apply the force required at the time.

J. Use of force Reporting

1. Every time an officer of this office does any one or more of the following actions, a use of force report will be completed.
 - a. A deployment of force, with a lethal weapon, less lethal weapon, a weapon of opportunity or with a empty hand technique.
2. The mere act of hand cuffing or placing a subject/suspect in hand cuffs, legs irons or other approved department restraints is not considered a use of force that would require a reporting action, unless the approved restraint device was used in conjunction with an empty hand technique such as a “cuff grab or drag” or using the restraint devise as a weapon. Additionally, escorting a complaint subject or arrestee is also not considered a use of force.
3. The use of force report will be completed and forwarded to the Patrol Lieutenant through the employees’ chain of command prior to the end of shift.
4. Within three (3) business days the Patrol Lieutenant. will review the use of force report for accuracy and to ensure that the employee utilized force in accordance with department policy and agency training protocols. If a supervisor finds that an employee over or under utilized too much force during and incident, that will be noted on the report and the employee will receive remedial training on the topic within (5) business days. That report will also be flagged for a use of force review (see #7 below). If a supervisor believes that an employee has committed an act of a excessive use of force (a criminal act) it will immediately be reported to the employee’s chain of command.
5. If any officer with this department witnesses another law enforcement officer utilizing force that is violation of the law, he or she will immediately intervene to stop the unlawful application of force. Additionally, it is that officer’s duty to report to his immediate supervisor any acts that he or she witness that would constitute an unlawful application of force by any law enforcement officer.
6. At the direction of the Chief of Police or his designee, if an officer utilizes force that results in serious physical injury or death, that officer may be removed from line duties and placed on administrative leave or an alternative assignment, pending an investigation of that particular use of force.
7. Once every six calendar months the use of force instructor cadre for the agency will meet and randomly select at least 10% of the complied use of force reports and review them for use of force trends, short comings and for training purposes. If the review panel finds training deficiencies or policy violations, those finding will be reported to the training division and/ or the Professional Standards Division

respectively.

K. Use of force Training

1. In addition to any required NNMLEA training on use of force, every officer with this agency will be trained on this policy in its entirety every two years by a use of force instructor within the agency, and in the basic academy prior to being issued an approved firearm.
2. In the agency will be provided a copy of this policy prior to being issued a department weapon. Every officer with
3. Any formal use of force of force training or remedial use of force training will be documents and cataloged in accordance with this agency's policy on training documents.

SUNLAND PARK POLICE DEPARTMENT	ADMINISTRATION
SUBJECT: <i>Officer Involved Shooting</i>	NUMBER: <i>ADM.05.02</i>
EFFECTIVE DATE: <i>February 5, 2016</i>	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED:
	Jaime Reyes Chief of Police
NMMLEPSC STANDARDS: <i>ADM.05.02</i>	NMSA:

I. STATEMENT OF PURPOSE

The purpose of this General Order is to establish fair and impartial procedures for the investigation of officer involved shootings. It also outlines the assignment of a liaison officer to assist involved officer(s) through administrative and emotional support.

II. POLICY

The Sunland Park Police Department (SPPD) shall fairly and impartially investigate all on-duty or off-duty officer involved shootings. The department shall make a liaison officer available to any involved officer to assist with administrative and emotional support.

III. APPLICABILITY

This General Order applies to all commissioned employees. This General Order supersedes all previous versions.

IV. REFERENCES

- CALEA 1.3
- NMML ADM.05.04
- Peace Officer's Employer-Employee Relations Act

DEFINITIONS

Officer Involved Shooting – An officer involved shooting occurs when a commissioned officer discharges a firearm during the lawful discharge of his/her duty, whether or not the intended target was hit. An officer involved shooting may occur while an officer is off-duty depending on the circumstances and whether or not the officer was acting under color of law. An officer involved shooting is not when an officer negligently discharges a firearm or discharges a firearm while committing a crime.

Officer Involved Incident Task Force (OITF) – The OITF is comprised of representatives from the New Mexico State Police (NMSP), Dona Ana County Sheriff's Office (DASO), New Mexico State University Police Department (NMSUPD), and the Las Cruces Police Department (LCPD). Established by the 2009 Joint Powers Agreement, investigation of Officer Involved Criminal Incidents, the OITF is the main investigatory body for officer

involved shootings.

V. TYPES OF INVESTIGATIONS

Officer involved shootings require two separate investigations. They are:

- A. A criminal investigation of the incident by the OITF or other agency with jurisdiction.
- B. An administrative investigation will be conducted by the Chief of Police's designee to determine if there were any violations of General Orders, SOP, or any other rules and regulations.

VI. SUPERVISOR RESPONSIBILITIES

- A. Upon arrival at the scene of an officer involved shooting, the first uninjured supervisor shall:
 1. Take all reasonable steps to obtain emergency medical aid for all injured persons.
 2. Take incident command and secure the scene of the incident with additional personnel until relieved by proper authority.
 3. Obtain an overview and/or public safety interview of the situation from any officer(s) who did not discharge their firearm.
- a. If only the officer who discharged his/her firearm is available, the supervisor may ask for a voluntary statement concerning public safety information necessary to secure the scene and pursue suspects. If necessary, the supervisor may administratively order any SPFD officer to immediately provide public safety information necessary to secure the scene and protect the public. Public safety information shall be limited to:

- 1) Outstanding suspects
- 2) Suspect(s) descriptions
- 3) Number and direction of shots fired
- 4) Perimeters of the scene
- 5) Identity of any known witness
- 6) Other information necessary to safeguard the public

- b. The first responding supervisor shall not order or compel a statement from any officer involved other than to provide public safety information.
- 4. Make all necessary notifications of the incident as outline in VII. Notifications.
- 5. Arrange for the officers who discharged a firearm to be transported to the SPPD station for further direction once the lead investigator has released the involved officers from the scene. If more than one officer is involved, each officer should be transported separately to protect the accuracy of each officer's statement.

Involved officer(s) shall not discuss the incident with other involved officers pending direction from a supervisor. Involved officers may discuss the incident with their attorney, SPPOA representative, and psychological counselor.

- 6. Preserve the integrity of any physical evidence present on equipment, clothing, or the involved officer(s) until investigators can properly retrieve it.
- 7. Secure the involved officer's firearm as evidence

When an officer is required to surrender his/her firearm as evidence, the officer shall be provided with a comparable replacement firearm or immediately transported to the SPPD station by another commissioned officer.

VII. NOTIFICATIONS

A. The Incident Commander shall ensure the following personnel are notified as soon as practical:

- 1. Chief of Police
- 2. Patrol Lieutenant
- 3. CID Lieutenant who will activate the OITF
- 4. SPPOA President or designee for represented employees
- 5. Psychological/Peer support personnel
- 6. City Risk Management

VIII. INVESTIGATION PROCEDURES

- A. The OITF shall investigate officer involved shootings. The OITF shall conduct a criminal investigation into the circumstances of an officer involved shooting, whether or not the intended target was struck or anyone was injured. The CID supervisor shall assign personnel to the OITF as prescribed in the OITF Joint Powers Agreement.

- B. Once public safety issues have been addressed, the OITF will begin its investigation of the officer involved shooting. The OITF will have full access to the scene, evidence, and reports. The OITF shall interview and/or interrogate, victims, suspects, witnesses, and any officers involved in the incident.
- 1. Any involved officer may request and be afforded the opportunity to consult with an attorney of his/her choosing prior to speaking with a criminal investigator.
- 2. Voluntary statements provided by officers will be made available for inclusion in the administrative and/or other related investigations.
- 3. Administratively compelled statements shall not be provided to any criminal investigators unless the officers' consents or the release is authorized by law.

IX. INVOLVED OFFICER(S)

- A. Investigators shall make reasonable accommodations to the involved officer's physical and emotional needs.
- B. Any officer who discharges a firearm at a person shall be placed on administrative leave with pay for at least three (3) days. When an officer discharges his/her firearm at an animal the officer may be placed on administrative leave with pay at the discretion of the Chief of Police. This is intended to provide time for the involved officers to recover from the physical, mental, and emotional stress of the incident.
 - 1. Administrative leave may be extended based the totality of the circumstances, the best interests of the investigation, and the best interests of the involved officer.
 - 2. Should a large number of officers be involved in a shooting incident and placing them all on administrative leave prove to be impractical, the Chief of Police may allow the officers back to duty after each has met with a mental health professional. The Chief of Police may also temporarily reassign employees as needed to ensure proper staffing levels throughout the department.
- C. Involved officers shall not discuss the incident with other involved officers or coworkers and may receive further guidance from the OITF, supervisor, or PSU. Involved officers should be cognizant that not all conversations are considered privileged and comments may be used against the officer.
- D. Employees shall not discuss or post comments concerning the incident on social media or social networks.
- E. A mental health professional shall be provided by the department to each involved officer or any officer upon request.
 - 1. Interviews and conversations with a licensed medical health professional are privileged and will not be disclosed except to the extent that the officer is or is not fit to

return to duty.

X. ADMINISTRATIVE INVESTIGATION

In addition to the criminal investigation, the SPPD shall conduct an administrative investigation to determine any policy violations, policy weaknesses, and/or training needs. Administrative investigations shall be conducted by the Chief of Police designee PSU. Administrative investigations shall commence at the conclusion of the criminal investigation to avoid contaminating the criminal investigation with protected disclosures made by involved officers.

- A. Any officer involved in an officer involved shooting shall be administratively compelled to submit to drug and/or alcohol screening in accordance to CMP 8.1, Substance Abuse/Detection Policy immediately after the incident.
- B. The Chief of Police designee investigator shall review the criminal investigation in its entirety before proceeding with administrative investigation and any interviews of those involved.
- C. All interviews conducted by the Chief of Police designee investigator shall conform to the guidelines set forth in the SPPOA contract and the Peace Officer's Employer-Employee Relations Act.
- D. The Chief of Police or the Chief of Police designee investigator may request the assistance of appropriate subject matter experts to assist with the investigation and/or interviews.
- E. The Chief of Police designee investigator shall compile all relevant information, reports, and findings for the Chief to determine compliance with General Orders and any other rules and regulations.

XI. MEDIA RELATIONS

A media release shall be prepared regarding SPPD officer involved shootings in a reasonable time. Information released shall be approved by the Chief of Police, the OITF Commander, and the Public Information Office (PIO). The Chief of Police may also call a press conference to communicate the nature of the incident and ongoing investigative procedures.

XII. REPORTING

- A. In the event that a suspect(s) remains outstanding or subject to prosecution for related offenses, the department shall retain the authority to require the involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.
- B. Initial reports shall be completed by investigators who shall interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal

prosecution of suspects, statements of involved officers should focus on evidence to establish the elements of any crime charged.

- C. All Use of Force reports shall be completed by the OITF with the assistance of the SPPD detective assigned and/or the Chief of Police designee investigator.
- D. Reports of employee injury shall be completed by the involved officer's supervisor.

XIII. OFFICER INVOLVED SHOOTING LIAISON OFFICER

- A. The department shall make available a liaison officer to assist the officers involved in an officer involved shooting. The liaison officer shall be:
 - 1. A commissioned officer in good standing with the department.
 - 2. An officer chosen with the assistance of the involved officer.
- B. The liaison officer shall be assigned as soon as practical by the Chief of Police or requested by the involved officer to assist and act as a secondary point of contact for the involved officer. Liaison officers may be temporarily reassigned from their regular duties at the discretion of the Chief of Police.
- C. After being assigned as a liaison officer, the liaison officer shall:
 - 1. Attend a briefing about the incident by the Chief of Police or his/her designee
 - 2. Make reasonable attempts to contact and inform the involved officer of the assignment as liaison officer. The involved officer may waive the need for a liaison officer. The liaison officer shall inform the Chief of Police of the involved officer's refusal of a liaison officer, and resume his/her normal duties.
 - 3. If the involved officer chooses to accept the assistance of a liaison officer, the liaison officer shall:
 - a. Assist the involved officer in contacting legal representation.
 - b. Keep daily contact with the involved officer in order to check the welfare of the involved officer and his/her family.
 - c. Give regular feedback to the Chief of Police or designee as to the status of the involved officer.
 - d. Provide transportation to the involved officer for:
 - 1) Interviews

- 2) Employee Assistance Program (EAP) meetings or other physical and/or mental health services
- 3) Victims Assistance meetings
- 4) Any other official business as needed
4. Ensure regular communication between the involved officer(s) and the Chief of Police or his/her designee as to the status of the investigation.
5. The liaison officer shall not discuss the investigation, other than general status, with the involved officer. Conversations between the involved officer(s) and the liaison officer are not privileged communications.